

SUPREME COURT OF WYOMING

Ronald Dale Anderson v. State

2016 WY 95A · No. S-16-0156 · Decided October 11, 2016

SUMMARY

The Wyoming Supreme Court affirmed Ronald Dale Anderson’s convictions and concurrent sentences for two counts of third-degree sexual abuse of a minor after appellate counsel filed an Anders motion to withdraw and Anderson did not submit a pro se brief. The court granted counsel’s withdrawal, affirmed the district court’s judgment and sentence, and remanded for correction of clerical errors concerning the statutory subsection for one count.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	E. James Burke, Chief Justice
JURISDICTION	Wyoming
DECIDED	October 11, 2016
DOCKET	S-16-0156
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Anderson appealed judgments entered after his unconditional guilty pleas and concurrent sentences. Appointed appellate counsel filed an Anders motion to withdraw, and Anderson did not file a pro se brief despite receiving an extension.
STANDARD OF REVIEW	The court independently reviewed the record and Anders brief to determine whether the appeal presented issues requiring further briefing and whether the judgment and sentence should be affirmed.
PRECEDENTIAL VALUE	Published Wyoming Supreme Court opinion
PARTIES	Ronald Dale Anderson v. State of Wyoming

TOPICS

- criminal procedure
- appellate procedure
- right to counsel
- sentencing
- preservation of error

PRACTICE AREAS

- criminal appellate procedure
- criminal procedure
- plea-based convictions
- appellate counsel withdrawal

QUESTIONS PRESENTED

1. Whether appointed appellate counsel satisfied the requirements for withdrawal under *Anders v. California*.
2. Whether the district court's judgment and sentence should be affirmed after review of the record and *Anders* brief.
3. Whether clerical errors incorrectly identifying the statutory subsection for one offense should be corrected under W.R.Cr.P. 36.

HOLDINGS

1. Appointed appellate counsel's *Anders* submission did not sufficiently identify potential errors or issues and did not fully demonstrate the required search of the record and law, but further briefing was unnecessary because the case was not sufficiently complicated to require it.
2. Clerical errors incorrectly stating the statutory subsection supporting one count should be corrected under W.R.Cr.P. 36 when the correct subsection is established by the change-of-plea transcript.

KEY QUOTATIONS

“Simply dismissing any potential error as non-prejudicial does not satisfy counsel’s obligation to “refer[] to anything in the record that might arguably support the appeal.”” (¶ 3)

FACTUAL BACKGROUND

Pursuant to a plea agreement, Ronald Dale Anderson entered unconditional guilty pleas to two counts of sexual abuse of a minor in the third degree. The district court imposed concurrent sentences of 10 to 15 years on the two counts. The charging documents and judgment incorrectly identified the statutory subsection for the count involving victim BC, although the change-of-plea transcript reflected the correct subsection.

PROCEDURAL HISTORY

Pursuant to a plea agreement, Anderson pleaded guilty to two counts of third-degree sexual abuse of a minor. The district court entered a February 9, 2016 judgment upon plea of guilty and imposed concurrent sentences of 10 to 15 years on May 16, 2016. On appeal, appointed counsel moved to withdraw under *Anders v. California*; the Wyoming Supreme Court granted withdrawal, affirmed the judgment and sentence, and remanded for correction of clerical errors.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The matter was remanded to the district court to correct the clerical errors identified in paragraph 4, including the incorrect statutory subsection for the count involving victim BC. The judgment and sentence were affirmed.

CASES CITED

- Anders v. California, 386 U.S. 738, 744, 87 S. Ct. 1396, 1400, 18 L. Ed. 2d 493 (1967)
- United States v. Marvin, 211 F.3d 778, 781 (3d Cir. 2000)

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